

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 765

In Re: Robert Morse Excavating, Alleged Violation of)
September 2, 2010, as reported by Comcast)

Order entered: 8/30/2011

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to Robert Morse Excavating ("Respondent").
2. Incident Date: September 2, 2010
3. Incident Location: 61 Maple Street, Berlin, VT
4. Name and Address of Company that Reported the Incident to the Department: Comcast, 676 Island Pond Road, Manchester, NH 03109
5. Date Incident Reported to Effected Utility: September 2, 2010
6. Date NOPV issued by Department: June 10, 2011 (#1895)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 9/2/10, Bob Morse Excavating was excavating to reset stairs at this site. Bob Morse Excavating did not notify the one call center prior to excavating. During the course of the excavation, an unmarked Comcast distribution wire was damaged, causing a loss of service to 40 subscribers for several hours. The site was not marked out because no notification was made to the one call system prior to excavating. VT State Housing notified Comcast of the damaged facility. The Department of Public Service issued 0 Notices of Probable Violation (NOPVs) to Robert Morse Excavating during the 12 months preceding this incident."
8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7004

9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Five Hundred Dollars (\$500.00).
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

Within thirty days of the date of this Order, Robert Morse Excavating shall pay a civil penalty in the amount of Five Hundred Dollars (\$500.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701.

1. *See*, Respondent's filing of 6/22/11.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 30th day of August, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 30, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.